



WISCONSIN REGULATORY DIGEST

A Publication of the DEPARTMENT OF REGULATION AND LICENSING FOR PRIVATE SECURITY PERSONS

Volume 1, No. 2

MAY, 1998

Statistics

The Department has issued 7,180 private security permits since July 1, 1997.

Renewal Of Private Security Permits

All permits will expire on August 31, 1998. Every private security person who wishes to act as a private security person after August 31, 1998, must renew his or her permit by September 1, 1998. Renewal applications will be sent to all private security persons sometime in July, 1998. The renewal fee will be \$41. Some applicants will be required to pay the cost of a criminal records check, depending on when they received an initial permit from the Department and depending on some other factors which will be explained in the renewal instructions.

PRIVATE SECURITY PERSONS ADVISORY COMMITTEE

Members of the Committee:

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Dennis Brewer (East Troy)
Edward Byrne (Green Bay)
Mark Harder (Milwaukee)
Sheriff Tom Kocourek (Manitowoc)
James Martin (Beloit)
Oscar Mireles (Madison)
Mark Riesinger (Wauwatosa)
Sgt. Richard Scanlon (Madison)
Shawn Smith (Madison)

Administrative Staff:

Cletus J. Hansen, Division Administrator

Executive Staff:

Marlene A. Cummings, Secretary
Patricia McCormack, Deputy Secretary
Myra Shelton, Executive Assistant
If you submit your application after August 31, 1998, you will still be permitted to renew your

permit; however, you will be charged an additional \$25 late filing fee. In addition, if you work without a permit after September 1, 1998, you and your employer may be disciplined and be required to pay for the cost of the investigation and prosecution.

You must inform the Department of any change in the address which you have on file with the Department. Failure to inform the Department of an address change, can result in a \$50 forfeiture. This already has been a problem for the Department. At least 200 copies of the last issue of the Regulatory Digest have been returned "undeliverable." Can you afford \$50?

Employers, it is imperative that you make sure all of your currently-employed private security personnel have filed a renewal application before September 1, 1998. Due to the fact that applications may be in transit and in processing during September, wait until about October 1, 1998 and then verify with every person currently working for you that they have received a new permit. If not, do not assign the person for duty.

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False Information on Applications

Tell your friends and prospective employees that if they lie on their application about convictions of

crime, their permit will be denied just for the fact that they lied. It is best to provide complete information on the application. Not all convictions will result in denial of an application. Felony convictions will result in a denial; however, misdemeanors and ordinance violations are reviewed to determine the nature of the conviction, the number of convictions, the number of years that have gone by since the conviction, evidence of rehabilitation and other similar factors.

Selected Statutes and Rules

The Department has revised a booklet which was previously called the Study Manual for the Wisconsin Private Detective Examination. This booklet is now called the Wisconsin Statutes and Administrative Rules Relating to the Practice of Private Detectives and Private Security Personnel. This booklet may be purchased from the Department for \$5.28 (including tax, postage and handling).

Permit Needed Before Practice

Private security persons may not begin performing private security services for a private security company until they have received a permit from the Department of Regulation and Licensing. The filing of an application for a permit is not sufficient authorization to practice.

Advisory Committee

The Private Security Advisory Committee has had two meetings since the last issue of the Regulatory Digest. The committee met on January 7, 1998, and March 5, 1998. The next meeting is scheduled for May 7, 1998. All meetings are held at 1400 E. Washington Avenue in Madison and are open to the public.

The following are issues discussed by the committee and actions taken:

- The committee recommended that the Department reject any proposal to have the Department involved in the recovery of an employer's property from private security personnel who leave the employer's company. There are other legal remedies available for these matters.
- The committee recommended that the Department not seek an amendment of the Wisconsin Statutes which would require security guards hired by commercial and industrial companies to be regulated by the Department. The current law says that **employees** of commercial and industrial companies (we're talking here about "employees" in the most strict sense of the term; we're not talking about private security who contract with businesses) do not have to have a private security permit, even if they are in uniform and armed.

- The committee requested more information from the Department about permit renewal procedures, costs of the Department and the fees received by the Department, so that the committee can provide its recommendation concerning its tentative position that permits ought to be renewed every two years on the permit anniversary date, rather than on the same date for everyone.
- The committee recommended that the statutes be changed, so that the Department may issue a 90-day permit for \$15 or an amount which is necessary to cover costs of the Department.
- The committee also dealt with other issues which are of greater significance to private security companies than they are for individual private security personnel. These issues will be discussed in the next issue of the Regulatory Digest for private detective agencies. Note that private security companies are licensed by the Department as private detective agencies, even if they only provide private security services to the public.

Bodyguards

A person who acts as a private security person and does not wear a uniform, such as a bodyguard, must be licensed as a private detective. The person may not carry a concealed weapon unless he or she is a police officer.

Changes of Employment

Employers must notify the Department whenever a private security person leaves their employment and whenever a person who already has a private security permit becomes employed by them. The notice must be provided to the Department within 5 days after the employment action. The Department has a form available for this purpose.

Handcuffing, Searching and Detaining People

A licensed private security company has recently made the paper regarding handcuffing people, subjecting them to personal searches and scouring their home for drugs -- all without search powers and law enforcement status, according to the newspaper account. The Department's Legal Counsel for private security regulation was quoted as saying: "(private security persons) don't have any authority above and beyond a regular citizen as far as depriving someone of their liberty, confining them or searching them. A citizen does have the right to arrest another person, but that appears, according to case law, to be only in situations where a felony has been committed in their presence, or a misdemeanor which is a breach of the peace which means conduct involving violence or threatens to incite violence." Make sure your employer has given you clear instructions about authority to detain people in various circumstances.

Statutes Relating to Self-Defense and Defense of Others

Section 939.48 of the Wisconsin Statutes addresses self-defense and defense of others. This section says the following about the use of force against another person:

(1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference. The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

(2) Provocation affects the privilege of self-defense as follows:

(a) A person who engages in unlawful conduct of a type likely to provoke others to attack him or her and thereby does provoke an attack is not entitled to claim the privilege of self-defense against such attack, except when the attack which ensues is of a type causing the person engaging in the unlawful conduct to reasonably believe that he or she is in imminent danger of death or great bodily harm. In such a case, the person engaging in the unlawful conduct is privileged to act in self-defense, but the person is not privileged to resort to the use of force intended or likely to cause death to the person's assailant unless the person reasonably believes he or she has exhausted every other reasonable means to escape from or otherwise avoid death or great bodily harm at the hands of his or her assailant.

(b) The privilege lost by provocation may be regained if the actor in good faith withdraws from the fight and gives adequate notice thereof to his or her assailant.

(c) A person who provokes an attack, whether by lawful or unlawful conduct, with intent to use such an attack as an excuse to cause death or great bodily harm to his or her assailant is not entitled to claim the privilege of self-defense.

(3) The privilege of self-defense extends not only to the intentional infliction of harm upon a real or apparent wrongdoer, but also to the unintended infliction of harm upon a 3rd person, except that if the unintended infliction of harm amounts to the crime of first-degree or 2nd-degree reckless homicide, homicide by negligent handling of dangerous weapon, explosives or fire, first-degree or

2nd-degree reckless injury or injury by negligent handling of dangerous weapon, explosives or fire, the actor is liable for whichever one of those crimes is committed.

(4) A person is privileged to defend a third person from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which the person is privileged to defend himself or herself from real or apparent unlawful interference, provided that the person reasonably believes that the facts are such that the third person would be privileged to act in self-defense and that the person's intervention is necessary for the protection of the third person.

(5) A person is privileged to use force against another if the person reasonably believes that to use such force is necessary to prevent such person from committing suicide, but this privilege does not extend to the intentional use of force intended or likely to cause death.

(6) In this section "unlawful" means either tortious or expressly prohibited by criminal law or both.

Disciplinary Actions

TYRONE DOTSON Milwaukee, WI	Limitation
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Applicant provided false information on an application. Applicant required to pay \$150 to the Department or his permit will be suspended. Applicant may not carry a firearm. Effective 12/9/97.

MICHAEL L. MCKENNA Manitowoc, WI	Limitation
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Applicant may receive a permit after the Department receives a comprehensive report from a mental health provider acceptable to the Department attesting to the applicant's ability to safely and competently practice. Applicant must continue treatment and must file written reports. Effective 11/4/97.

LESTER A. HOFFMAN a/k/a/ LESTER CROSS Pittsburgh, PA	Revocation
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Hoffman falsified his permit application and was found to have been convicted of a felony. Effective 3/5/98.

Department of Regulation and Licensing
Private Security Section
P.O. Box 8935
Madison, WI 53708-8935

REGULATORY DIGEST

Bulk Rate
U.S. Postage
Paid
Madison, WI
Permit No. 1369

RETURN SERVICE REQUESTED

Telephones

The Division of Business Licensure & Regulation has installed a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for licensing staff is:

(608) 266-5511

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press numbers as noted:

Application Forms	Press 11
Complaints Against Licensees	Press 12
Whether A Person is Licensed	Press 21
Change of Address or Name	Press 21
Application Processing & Requirements	Press 43
Changes of Employment	Press 22

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>
Send comments to dorl@mail.state.wi.us

Wisconsin Statutes and Code

Copies of the Private Detective and Private Security Personnel Statutes and Administrative Code can be ordered through the Board Office. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated January, 1998.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided, but may be verified by calling the board office one week after mailing the changes.

WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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